

February 9, 2026

Lauren Sanchez, Chair  
California Air Resources Board  
1001 I Street  
Sacramento, CA 95814

**Subject: California Water Association Comments on Proposed California Corporate Greenhouse Gas Reporting and Climate-Related Financial Risk Disclosure Initial Regulation**

Dear Chair Sanchez,

On behalf of the California Water Association (CWA) and its 84 member utilities, thank you for the opportunity to provide input on the California Air Resources Board's (CARB) proposed regulations on SB 253 and 261. CWA represents investor-owned drinking water utilities regulated by the California Public Utilities Commission (CPUC), serving more than 6 million Californians. Our members are committed to environmental stewardship and support the State's broader climate goals.

We urge the Board to consider the following comments during their deliberation of the proposed regulations. The implementation of SB 253 and SB 261 creates new compliance obligations for water utilities that have not historically been subject to climate reporting mandates.

CWA submits the following comments to identify areas where revisions to the regulatory proposal can help provide further clarity.

**Defining "Doing Business in California" and Covered Entities**

Reliance on California Revenue and Taxation Code section 23101 creates ambiguity, particularly for entities not incorporated or headquartered in California, which entities have significant operations outside of California, especially in the case of entities with some



**WORKING TOGETHER.  
ACHIEVING RESULTS.**

**California Water Association**

601 Van Ness Avenue, Suite 2047  
San Francisco, CA 94102  
510.392.4920  
[www.calwaterassn.com](http://www.calwaterassn.com)

**Mailing Address:**

39221 Paseo Padre Pkwy, Suite J  
Fremont, CA 94538

**Executive Director**

Jennifer Capitulo  
916.402.1155  
[jcapitulo@calwaterassn.com](mailto:jcapitulo@calwaterassn.com)

**External Affairs Director**

Sarah Musiker  
510.203.7394  
[smusiker@calwaterassn.com](mailto:smusiker@calwaterassn.com)

**Administrative Director**

Samantha Raulinaitis  
916.208.1342  
[sraulinaitis@calwaterassn.com](mailto:sraulinaitis@calwaterassn.com)

**CWA President**

John Tang  
San Jose Water

**First Vice President**

Carmelitha Bordelon  
Suburban Water Systems

**Second Vice President**

Joel Reiker  
San Gabriel Valley Water Company

**Third Vice President**

Rami Kahlon  
California Water Service

**Treasurer**

Jon Pierotti  
Golden State Water Company



**WORKING TOGETHER.  
ACHIEVING RESULTS.**

California operations whose parent companies have limited or no independent tax nexus to California. CWA would suggest that the definition of “doing business in California” be aligned so that only entities that do business in California under the California Corporations Code and that appear in the California Secretary of State’s Business Entities database would be subject to SB 253 and/or SB 261.

The regulations and definitions should offer all entities operating within California, regardless of their ownership form or structure, reasonable clarity as to whether their operations would fall within or outside the scope of the California Climate Laws.

We recommend that the “doing business in California” test be determined on an entity-by-entity basis, not including parents, subsidiaries or affiliates, rather than on a consolidated basis, which is consistent with the text of the California Climate Laws. Additionally, we would recommend that the Board clarify that, consistent with the text of the California Climate Laws, companies who may be doing business in California may elect to compute their “total annual revenues” on a standalone basis without regard to their parents, subsidiaries or affiliates.

The proposed regulations do not provide a clear mechanism for companies to challenge CARB’s determination that they are “covered entities” subject to the requirements and fees of SB 253 and SB 261. Given the significant compliance obligations, ongoing fee liability, and potential penalties associated with covered-entity status, the absence of a defined process to contest applicability raises serious due process and fairness concerns.

## **Reporting Timelines**

The proposed regulation establishes an August 10th reporting deadline for all reporting entities to submit the emissions data required under SB 253.

CARB should adopt a “rolling” submission schedule where reports are due exactly twelve months following the close of an entity’s individual fiscal year. This model provides the greatest degree of equity, ensuring that every reporting entity has an identical window of time to finalize and assure its data regardless of its accounting cycle. This “rolling” approach would distribute the demand for specialized technical and



**WORKING TOGETHER.  
ACHIEVING RESULTS.**

assurance services throughout the calendar year, lowering costs and ensuring that each report reflects the most recent and accurate data available for that specific enterprise. Given the impending complexity of Scope 2 updates and the addition of Scope 3, providing deadline flexibility is essential for a workable regulatory framework.

Timing flexibility will also address the concern related to the limited availability of qualified third-party assurance providers. Timing constraints will further be amplified as assurance requirements transition from “limited” to “reasonable” assurance, which is a much more time-consuming process. This type of reporting presents a technical and administrative burden, which will be further exacerbated when Scope 3 reporting requirements join the mandate. At that point, the time required to gather, verify, and assure this data will necessarily and significantly increase. A rigid “one size fits all” August deadline fails to account for the prolonged data-collection cycles required for these expansive indirect emission reporting requirements and the fact that companies may operate on different fiscal year-end dates.

Additionally, CWA recommends CARB consider how reporting timelines are applied in the event of a merger or acquisition. In the event of a merger or acquisition, reporting should be limited to forward looking data only; in other words, a company should not be responsible for collecting and reporting data for a predecessor company or for a period of time prior to an acquisition. Reporting timelines should consider when a company has merged, allowing for a grace period to collect and report pertinent and relevant data.

### **Data collected**

Certain climate-related disclosure requirements could inadvertently require reporting of various types of sensitive information, and CARB should look to restrict the risk of such disclosures. The Board should provide an exemption from supplying data if it would be confidential, proprietary or otherwise sensitive information, or if a company is prevented by applicable law from doing so, including in the case of information that may be classified or restricted due to national security concerns.

CWA recognizes that CARB does not have the same flexibility in setting the general substance of the disclosure requirements, as this was defined by the authorizing legislation; however, these standards should recognize the need for nuance and flexibility in how organizations prepare relevant disclosures.



**WORKING TOGETHER.  
ACHIEVING RESULTS.**

## **Fee Structure and Customer Affordability**

Health and Safety Code sections 38532 and 38533 authorize CARB to assess fees solely for the purpose of recovering the reasonable costs of implementing and administering the statutory greenhouse gas reporting and disclosure programs. Nothing in these provisions authorizes CARB to recover the costs of defending regulations against judicial challenge

The methodology for calculating and assessing implementation fees in Sub article 2 of the proposed regulations raises substantial legal concerns. As designed, the fee framework exceeds CARB's fee authority under Health and Safety Code sections 38532 and 38533, and independently exhibits the characteristics of an unauthorized tax under Article XIII A of the California Constitution and a compelled subsidy of government advocacy in violation of the First Amendment.

The proposed fee framework also includes an automatic annual adjustment tied to the Consumer Price Index (CPI). While inflation indexing can be appropriate in limited circumstances, the CPI mechanism proposed here operates independently of actual program costs and therefore risks systematic overcollection in violation of both statutory fee authority and the constitutional limits on regulatory fees. This also raises concerns with how these types of costs would be represented in the three-year cycle of general rate cases at the California Public Utilities Commission (CPUC). The potential for over collection presents an added concern for utilities, including water utilities, regulated by the PUC, which may result in utilities incurring costs that cannot be passed through or back to customers.

In addition, these regulations represent a substantial shift for regulated water utilities. Full compliance with SB 253 and SB 261 will be a significant operational and financial undertaking. For many utilities, the infrastructure, tools and expertise needed to comply are not currently in place. Data collection, internal hiring and system upgrades along with legal consultation and third-party assurance are expected to reach hundreds of thousands of dollars annually.

CWA underscores the financial burden these regulations place on California's regulated water utility customers. Many will need to augment processes and procedures to comply at the national-parent utility level. These efforts could strain budgets and often will be born by California customers and ratepayers.



**WORKING TOGETHER.  
ACHIEVING RESULTS.**

## **Enforcement and Penalty Provisions**

The proposed enforcement and penalty framework raises serious concerns regarding proportionality, due process, and consistency with CARB's delegated authority. As drafted, the provisions expose regulated entities to excessive and unpredictable liability for technical or administrative violations, even in the absence of harm, intent, or repeated noncompliance.

The proposed enforcement provisions do not meaningfully distinguish between: willful misconduct and good-faith error, material violations and minor technical deficiencies, or first-time and repeat violations.

Absent clear mitigation standards, regulated entities face the same penalty exposure whether a violation results from intentional noncompliance or from reasonable disagreement, evolving guidance, or administrative oversight. This lack of differentiation discourages cooperative engagement with CARB, particularly during the early years of a complex, first-of-its-kind reporting regime.

Effective enforcement frameworks typically incorporate graduated penalties, safe harbors, cure periods, and explicit mitigation factors. The absence of these features here increases the risk of arbitrary outcomes and inconsistent enforcement.

CWA recommends that CARB establish a right to cure period for first-time or non-material violations. Given the complexity of the disclosure obligations under SB 253 and SB 261, the proposed regulations should include clear and enforceable safe harbors to protect good-faith actors and to avoid penalizing entities for circumstances beyond their reasonable control. Safe harbors are particularly appropriate where compliance depends on third-party data, evolving methodologies, and professional judgment rather than bright-line conduct.

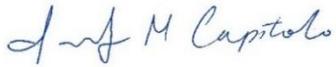
## **Conclusion**

CWA and its member utilities are committed to supporting California's climate goals especially as they relate to our water resources. For all of the reasons listed above, we respectfully request CARB to revise the proposal before proceeding.

We appreciate the Board's attention to these concerns and stand ready to support your efforts to develop equitable, effective, and administratively feasible regulations. Please do not hesitate to contact us for further discussion or clarification.

Thank you for your consideration of these comments. If you have any questions or would like to discuss further, please feel free to reach out to me at [jcapitolo@calwaterassn.com](mailto:jcapitolo@calwaterassn.com).

Sincerely,



Jennifer Capitolo  
Executive Director  
California Water Association



**WORKING TOGETHER.  
ACHIEVING RESULTS.**